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No. 83-942

IN THE

Supreme Court of the United States

October Term, 1983

RIPLEY COUNTY AREA PLAN COMMISSION,

Petitioner

vs.

MELVIN ROUSE, RALPH D. AILES, ELIZABETH J. AILES, DECATUR COUNTY AREA PLANNING COMMISSION,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether the petitioner Ripley County Area Plan Commission has properly invoked this Court's jurisdiction to review the decision of the Supreme Court of Indiana pursuant to 28 U.S.C. §1257(3) where the zoning ordinance under question was not specifically challenged on federal constitutional grounds in the courts below and neither the Supreme Court nor the Court of Appeals nor the trial court of Indiana specifically based their decisions upon the United States Constitution.

Whether a local zoning ordinance which requires the termination of an owner's pre-existing, uninterrupted and otherwise lawful nonconforming use of land within five (5) years of the date of the zoning ordinance violates the owner's right not to be deprived of his property without just compensation guaranteed to him by Article One, Section 21 of the Constitution of the State of Indiana.

TABLE OF CONTENTS

	Page
Questions Presented	i
Table of Authorities	iii
Parties	2
Opinions Below	2
Constitutional Provisions, Statute and Ordinance Involved	2
Statement of the Case	4
Reasons for Denying the Writ	
A.	4
B.	9
C.	14
Conclusion	14

TABLE OF AUTHORITIES

United States Constitution involved:
Fourteenth Amendment 2,6,8

Indiana Constitution involved:
Article One, Section 21 3,7

Statutes involved:
28 U.S.C. §1257 3,5,8
Ind. Code §36-1-4-5 14

Ordinances involved:
Ripley County Zoning Ordinance of 1970 3

CASES

Board of Supervisors of Cerro Gordo County v. Miller, Iowa, 170 N.W.2d 358 (1969) 11,12

Cardinale v. Louisiana, 394 U.S. 437 (1969) 8

City of Akron v. Chapman, 160 Ohio St. 382, 116 N.E.2d 697 (1953) 9,10,13

City of Fayetteville v. S & H, Inc. 261 Ark. 48, 547 S.W.2d 94 (1977) 13

City of Los Angeles v. Gage, 127 Cal.App.2d 442, 274 P.2d 34 (1954) 11

City of Paducah v. Johnson, Ky., 522 S.W.2d 447 (1975) 13

City of Seattle v. Martin, 54 Wash.2d 541, 342 P.2d 602 (1959) 11

Corpus Christi v. Allen, 152 Tex. 137, 254 S.W.2d 759 (1953) 12

County of Cumberland v. Eastern Federal Corp., 48 N.C.App. 518, 269 S.E.2d 672 (1980) 12

DeMull v. Lowell, 368 Mich. 242, 118 N.W.2d 232 (1962) 13

Department of Financial Institutions v. General Finance Corp., 227 Ind. 373, 86 N.E.2d 444 (1949) 10

Grant v. City of Baltimore, 212 Md. 301, 129 A.2d 363 (1957) 9,10

Gurnee v. Miller, 69 Ill.App.2d 248, 215 N.E.2d 829 (1966) 12

Harbison v. City of Buffalo, 4 N.Y.2d 553, 176 N.Y.S.2d 598, 152 N.E.2d 42 (1958) 9,11,13

Herb v. Pitcairn, 324 U.S. 117 (1945) 8

Hoffman v. Kinealy, Mo., 389 S.W.2d 745 (1965) ... 10,13

Jacobs v. Mishawaka Board of Zoning Appeals, Ind.App., 395 N.E.2d 834 (1979) 5,9

James v. City of Greenville, 227 S.C. 565, 88 S.E.2d 661 (1955) 13

Jones v. City of Los Angeles, 211 Cal. 304, 295 P. 14 (1930) 9

Lachapelle v. Town of Goffstown, 107 N.H. 485, 225 A.2d 624 (1967) 10,11

Lutz v. New Albany City Plan Commission, 230 Ind. 74, 101 N.E.2d 187 (1951) 9

Metropolitan Development Commission v. Marianos, Ind., 408 N.E.2d 1267 (1980) 9

McKinney v. Riley, 105 N.H. 249, 197 A.2d 218 (1964) 11,12

O'Connor v. City of Moscow, 69 Idaho 37, 202 P.2d 401 (1949) 9,10,13

Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922) 14

Rives v. City of Clarksville, Tenn.App., 618 S.W.2d 502 (1981) 10

Rochester Poster Advertising v. Town of Brighton, 49 A.D.2d 273, 374 N.Y.S.2d 510 (1975) 12

Spann v. Dallas, 111 Tex. 350, 235 S.W. 513 (1921) . 10

Standard Oil Co. v. City of Tallahassee, 183 F.2d 410 (5th Cir. 1950) 11

State ex rel. Dema Realty Co. v. Jacoby, 168 La. 752, 123 S. 314 (1929) 10

Suffolk Outdoor Advertising v. Hulse, 43 N.Y.2d 483, 373 N.E.2d 263 (1977) 12

Temple Baptist Church v. City of Albuquerque, 98 N.M. 138, 646 P.2d 565 (1982) 11

United Advertising Corp. v. Raritan, 11 N.J. 144, 93 A.2d 362 (1952) 13

Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926) 9

Village of Oak Park v. Gordon, 32 Ill.2d 295, 205 N.E.2d 464 (1965) 10,12

Webb v. Webb, 451 U.S. 493 (1981) 8

White v. City of Dallas, Tex.Civ.App., 517 S.W.2d 344 (1974).....11,12

Zacchini v. Scripps-Howard Broadcasting Co., 433 U.S. 562 (1977) 8

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Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondent Melvin T. Rouse respectfully requests that the Supreme Court of the United States deny the issuance of a writ of certiorari directed to the Supreme Court of Indiana to review the judgment and opinion entered by that Court on May 12, 1983.

PARTIES

The parties to this Petition are the Ripley County Area Plan Commission and Melvin T. Rouse.[1]

OPINIONS BELOW

The opinions of the Ripley County, Indiana Circuit Court are printed in petitioner's Appendix at D-1 *et seq.*, E-1 *et seq.*, and F-1 *et seq.* The opinion of the Court of Appeals of Indiana is printed in petitioner's Appendix at C-1 and is reported in 437 N.E.2d 1375 (1982). The opinion of the Supreme Court of Indiana is printed in petitioner's Appendix at A-1 *et seq.*, and is reported at 448 N.E.2d 1057 (1983).

CONSTITUTIONAL PROVISIONS, STATUTE AND ORDINANCE INVOLVED

The Fourteenth Amendment to the Constitution of the United States provides, in relevant part:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof,

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[1] In the Supreme Court of Indiana two separate cases were consolidated for purposes of appeal inasmuch as each case raised the identical issue. The case of *Decatur County Area Plan Commission versus Ralph D. Ailes and Elizabeth Ailes*, however, is not before this Court on this petition for a writ of certiorari. Only the case of *Ripley Area Plan Commission v. Melvin T. Rouse* is involved in this Petition.

Indeed, it is questionable whether petitioner Ripley County Area Plan Commission intended to pursue this matter in this Court. According to the Application For Extension Of Time In Which To File Petition To Intervene and Petition For Writ Of Certiorari filed by *amicas curiae*, Metropolitan Development Commission of Marion County, counsel for Ripley County informed Mark Dall, counsel for *amicas curiae*, that Ripley County decided not to seek certiorari review in this Court. However, when the *amicas curiae* agreed to provide legal counsel and to pay for the costs of pursuing this petition, apparently Ripley County acceded to the request of *amicas curiae* to file this petition for writ of certiorari. Presently, counsel of record for the petitioner is the same counsel who represented the *amicas curiae* in the Supreme Court of Indiana. Thus, whether there is a true case or controversy between the named parties is open to question.

are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges and immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Article One, Section 21 of the Constitution of Indiana provides:

> No man's particular services shall be demanded without just compensation. No man's property shall be taken by law, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

The relevant sections of the Ripley County Zoning Ordinance of 1970 provide:

> Section 3.5:
>
> The lawful use of a building or premises, existing at the time of passage of the ordinance, may be continued although such use does not conform to all the provisions of this ordinance or amendments to this ordinance except as hereinafter provided.
>
> ****
>
> (g) Any nonconforming open use of land shall be discontinued within five (5) years from the date of passage of this ordinance.

28 U.S.C. §1257 provides, in relevant part:

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> ****
>
> (3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is

drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under the United States.

STATEMENT OF THE CASE

Respondent Rouse accepts the petitioner's Statement of the Case set forth in its petition for a writ of certiorari at pp. 4-5. Additionally, however, respondent draws the Court's attention to petitioner's original Complaint, paragraph 9, wherein it is alleged that respondent's use of his property "constitutes a nuisance and should be abated." In its judgment, the trial court did not find that respondent's use of his property constituted a nuisance but only that it violated the zoning ordinance. (R. 3, 4, 5) This finding was not disturbed on appeal.

REASONS FOR DENYING THE WRIT

A.

Petitioner Ripley County Area Plan Commission [hereinafter referred to as "Ripley County"] asserts that the Supreme Court of Indiana determined, as a matter of federal constitutional law, that the termination of pre-existing nonconforming uses of real estate through a technique referred to as "amortization" violated due process of law. Petition for writ of certiorari at 6. Based upon this interpretation of the opinion of the Supreme Court of Indiana, petitioner asserts that its Petition squarely raises the issue of: "Whether amortization, as a means to phase out pre-existing lawful uses rendered non-conforming by a zoning ordinance, is *per se* a taking of property without due process of law under the Fourteenth Amendment to the United States Constitution." *Id.* at 2. A review of the record and of the opinions of the courts below

belies this contention and undermines the assertion of jurisdiction over this cause under 28 U.S.C. §1257(3).

The pleadings in this case disclose that the plaintiff-petitioner Ripley County filed a "Complaint for Injunction" wherein it sought an order enjoining respondent Rouse from continuing to violate the recently enacted zoning ordinance which prohibited him from utilizing his land for the purpose of operating a junkyard. (R. 8-9) Rouse answered the Complaint by alleging that the enforcement of the ordinance was "not permissible" inasmuch as it constituted a "prohibited retroactive application of the ordinance."[2] Thus, at the close of the issues, a challenge to the constitutionality of the zoning ordinance was not placed before the trial court. Judgment was entered on August 8, 1978, wherein the trial court found that Rouse was in violation of the zoning ordinance and ordered Rouse to remove all automobiles and equipment from his property within ninety (90) days. (R. 3) Approximately two (2) years later, Rouse filed his Motion for Relief From Judgment in which he alleged, *inter alia*: "That the Courts in Indiana, since the granting of the injunction and judgment herein on August 8, 1978, have rejected "amortization" as a constitutional method for elimination of pre-existing, non-conforming uses in zoning ordinance [sic], and therefore, the specific provision of the Ripley County Zoning Ordinance of 1970 as it applies to the defendant in the case at bar, is unconstitutional *under the present law of the State of Indiana.*" (R. 15). In support of this contention, Rouse relied upon Indiana appellate court cases which hold that, as a matter of Indiana state law, zoning ordinances may not prohibit the continuation of existing, lawful uses of real property and that ordinances which contravene this principle represent an unreasonable exercise of police power. (R. 11-16). *See*, e.g., *Jacobs v. Mishawaka Board of Zoning Appeals*, Ind.App., 395 N.E.2d 834 (1979). The trial

[2]Rouse also alleged that Ripley County's action was improper under the doctrine of laches, an issue which is not before the Court.

court rejected these arguments and found "that the Ripley County Zoning Ordinance as it applied to defendant's real estate in the present case is constitutional". (R. 4, 5). Thereafter, Rouse reasserted these State law arguments in his Motion to Correct Errors (R. 18-21), and the trial court again rejected his contentions. *See*, Order on Motion to Correct Errors, App. at F-1—F-3.

On appeal to the Court of Appeals of Indiana, Rouse reasserted his contention that amortization constituted a taking of his property without just compensation, thereby violating his right to due process. Again, no reliance was specifically placed upon the Fourteenth Amendment to support his contention, and the authorities upon which he relied were not grounded in federal due process. *See*, Brief of defendant-appellant at 12-19; Reply Brief of defendant-appellant at 3-4. Moreover, the opinion of the court of appeals upholding the constitutionality of the Ripley County zoning ordinance is devoid of *any* reference to the Fourteenth Amendment to the United States Constitution. (App. at C-1—C-11). Rather, the court of appeals simply concluded that "the amortization provisions at issue in the instant case are not unconstitutional *per se*." *Id.* at C-11. Rouse's petition for rehearing before the Court of Appeals alleged that the opinion was without factual support in the record and failed to respect his constitutional rights. However, again no reliance was placed upon the Fourteenth Amendment.

Rouse then filed his Petition To Transfer in the Supreme Court of Indiana, in which he contended that the Indiana common law of zoning prohibited the use of amortization to terminate pre-existing, nonconforming uses of real estate and that this technique was violative of a landowner's constitutional rights.[3] At oral argument, before the Supreme Court, Rouse clarified the constitutional basis of

[3]The briefs filed by the parties in the Court of Appeals were filed in the Supreme Court of Indiana without alteration.

his contentions by reference to Article One, Section 21 of the Constitution of the State of Indiana, which provides in relevant part: "No man's property shall be taken by law without just compensation." Again, no reliance was placed upon the Fourteenth Amendment to support Rouse's "constitutional" argument, and the remainder of his legal contention rested on the Indiana common law of zoning.

In rendering its decision, the Indiana Supreme Court held "...that an ordinance prohibiting any continuation of an existing lawful use within a zoned area regardless of the length of time given to amortize that use is unconstitutional as the taking of property without due process of law and an unreasonable exercise of the police power." (App. at A-8). Nowhere in the opinion of the Supreme Court is reference made to the Fourteenth Amendment and nowhere does the Court even hint that its decision is grounded in anything other than Indiana law.[4]

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[4]For example, the Court alludes to a number of Indiana appellate court decisions which infer disapproval for rapid termination of nonconforming uses.

The precise issue of amortization as a means of phasing out nonconforming uses by zoning regulation has not been directly addressed in this jurisdiction. In approving less drastic measures of phasing out, however, strong inferences have been made tht such a direct approach would not be acceptable. *Metropolitan Development Commission of Marion County v. Marianos*, (1980) ___ Ind. ___, 408 N.E.2d 1267; *Misner v. Presdorf*, (1981) ___ Ind. ___, 421 N.E.2d 684, *transfer denied*; *Jacobs v. Mishawaka Board of Zoning Appeals*, (1979) ___ Ind.App. ___, 395 N.E.2d 884, *trans. denied*; *Dandy Co., Inc. v. Civil City of South Bend*, (1980) ___ Ind.App. ___, 401 N.E.2d 1380. Typically the provisions of the zoning ordinances upheld in those cases and generally approved by this Court and the Court of Appeals allowed a use which was nonconforming to the area to continue with the limitations that exercise of the use could not be expanded or increased beyond its status at the time of the passage of the ordinance, exercise of the use could not be reinstated after there was an abandonment of it in the area by the original user or one successor to it, destruction of the enclosure housing the exercise of the use such as destruction by fire, authorized replacement again to the level existing at the time of enactment of the ordinance and in some cases replacement of that particular non-conforming use with another non-conforming use

Thus, it is not only questionable whether the respondent ever raised or preserved his federal constitutional claims in the Indiana state courts, but it is even less clear whether the Indiana courts considered these potential claims in rendering their judgments. Rather, a fair reading of the opinions below of the Court of Appeals and Supreme Court of Indiana reveals that the judgments rested upon an independent state ground—Article One, Section 21 of the Constitution of the State of Indiana—thus depriving this Court of jurisdiction over this petition for a writ of certiorari. 28 U.S.C. §1257; *Zacchini v. Scripps-Howard Broadcasting Co.*, 433 U.S. 562 (1977); *Herb v. Pitcairn*, 324 U.S. 117 (1945) (where record is ambiguous as to whether state court judgment rested on state or federal ground, the Supreme Court either refrains from reviewing the decision or returns case to the state court for clarification).

Equally so, had Rouse's challenge to the constitutionality of the Ripley County zoning ordinance failed before the Indiana Supreme Court, it is unlikely that he could invoke this Court's appellate jurisdiction to seek review of that decision. *Webb v. Webb*, 451 U.S. 493 (1981); *Cardinale v. Louisiana*, 394 U.S. 437 (1969). Correspondingly, Ripley County should be precluded from invoking the Court's *certiorari* jurisdiction by posthumously suggesting that Rouse's claim was cultivated in the turf of the Fourteenth Amendment and by speculating that the Indiana Supreme Court, without revelation, explanation or citation, struck down a local zoning ordinance on *federal* rather than state constitutional grounds. Jurisdiction under 28 U.S.C. §1257(3) has never rested on so slender a thread. Accordingly this petition for a writ of certiorari should be denied.

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that fell in the same class of uses as the original non-conforming use. By this method there was a gradual phasing out of non-conforming uses without taking from the user the right to exercise a use that was lawful prior to the enactment of the ordinance so long as all of the conditions and limitations were met. *Metropolitan Development Commission, supra; Jacobs, supra; Misner, supra.* App. at 5-6.

B.

Assuming, *arguendo*, that the opinion of the Supreme Court of Indiana was grounded in the due process clause of the Fourteenth Amendment, this Court should deny the petition for a writ of certiorari because the amortization provision in the Ripley County ordinance constitutes a deprivation of property without due process and just compensation. While it is settled that municipalities are generally empowered to enact zoning ordinances which regulate the use of property, it is also clear that such zoning typically relates to future development and works no disturbance with existing uses of property. *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926); *Lutz v. New Albany City Plan Commission*, 230 Ind. 74, 101 N.E.2d 187 (1951). Typically, pre-existing nonconforming uses of property[5] were excepted from the operation of zoning ordinances, and the owner was entitled to maintain his use of the property so long as that use was not expanded or destroyed, was uninterrupted, and was not abandoned. *Jacob s v. Michawaka Board of Zoning Appeals*, Ind.App., 395 N.E.2d 834 (1979). Indeed, it was generally recognized that to require an immediate cessation of a pre-existing nonconforming use of property would constitute a deprivation of property without due process. *See*, e.g. *Harbison v. City of Buffalo*, 4 N.Y.2d 553, 176 N.Y.S.2d 598, 152 N.E.2d 42 (1958); *Grant v. City of Baltimore*, 212 Md. 301, 129 A.2d 363 (1957); *Jones v. City of Los Angeles*, 211 Cal. 304, 295 P. 14 (1930); *O'Connor v. City of Moscow*, 69 Idaho 37, 202 P.2d 401 (1949); *City of Akron v. Chapman*, 160 Ohio St. 382, 116 N.E.2d 697 (1953); *Jacobs v. Mishawaka Board of Zoning Appeals*, *supra*. These

[5]The phrase "non-conforming use" has been defined to be a "use of premises which lawfully existed prior to the enactment of a zoning ordinance and which is allowed to be maintained or continued after the effective date of the ordinance although it does not comply with the use restrictions applicable to the area." *Jacobs v. Mishawaka Board of Zoning Appeals*, Ind.App., 395 N.E.2d 834 (1979); *Metropolitan Development v. Marianos*, Ind., 408 N.E.2d 1267 (1980).

decisions recognize the legitimate authority of the government to regulate prospectively the use of land and the propriety of the general policy of gradually eliminating nonconforming uses of property. However, they also accorded full credit to the maxim that "property" includes "not only ownership and possession but also the right of use and enjoyment for lawful purposes." *Hoffman v. Kinealy*, Mo., 389 S.W.2d 745 (1965). *Accord; Department of Financial Institutions v. General Finance Corp.*, 227 Ind. 373, 86 N.E.2d 444 (1949), (to deprive an owner of his use of the property is synonymous with depriving him of his physical interest in that property); *City of Akron v. Chapman, supra; Spann v. Dallas*, 111 Tex. 350, 235 S.W. 513 (1921); *O'Connor v. City of Moscow, supra.* Recognizing that due process of law prohibited the exercise of zoning authority to require an immediate cessation of a pre-existing, nonconforming use, local governments sought to achieve rapid uniformity in the use of land by phasing out nonconforming uses over various periods of time under the technique of "amortization." By amortization, owners are permitted to "amortize" the loss of their present beneficial use of property over a specified period of time, and thus, presumably, avoid the loss of the value of the use of their property. *See*, e.g. *Village of Oak Park v. Gordon*, 32 Ill.2d 295, 205 N.E.2d 464 (1965); *City of Los Angeles v. Gage*, 127 Cal.App.2d 442, 274 P.2d 34 (1954); *State ex rel. Dema Realty Co. v. Jacoby*, 168 La. 752, 123 S. 314 (1929); *Grant v. City of Baltimore, supra; Lachapelle v. Town of Goffstown*, 107 N.H. 485, 225 A.2d 624 (1967).

In determining the reasonableness and thus constitutionality of these amortization ordinances, courts typically attempted to weigh the hardship inflicted upon the property owner by requiring him to discontinue his non-conforming use against the public benefit to be gained by terminating that use. *See*, e.g. *Village of Oak Park v. Gordon, supra; Rives v. City of Clarksville*, Tenn.App., 618 S.W.2d 502 (1981); *Temple Baptist Church v. City of*

Albuquerque, 98 N.M. 138, 640 P.2d 565 (1982); *Harbison v. City of Buffalo, supra; City of Seattle v. Martin*, 54 Wash.2d 541, 342 P.2d 602 (1959), *City of Los Angeles v. Gage*, 127 Cal.App.2d 442, 274 P.2d 34 (1954). Where the courts have determined that such amortization ordinances are not violative of due process, they have typically concluded that the balance tipped in favor of the public interest in eradicating the nonconforming uses. Not surprisingly, many of these cases have scrutinized the use of property for storage and sale of used automobile parts (*See*, e.g., *Harbison v. City of Buffalo, supra; Lachapelle v. Town of Goffstown, supra; White v. City of Dallas*, Tex.Civ.App., 517 S.W.2d 344 (1974); *McKinney v. Riley*, 105 N.H. 249, 197 A.2d 218 (1964)) and billboards, since these businesses do not fare well in the aesthetic eyes of the public. However, as has been noted, "the principle of the decision applies equally to stores, shops or service organizations which are retroactively legislated out of existence by abolition of non-conforming uses. If petitioner's establishment is not secure against this kind of invasion, no one else's business is better protected. *** If this part of the city is to be redeveloped, it should be done through the enactment of a statute similar to slum clearance acts, whereby just compensation can be paid for private property that is confiscated for a public use." *Harbison v. City of Buffalo, supra*, 152 N.E.2d at 51 (dissenting opinion).[6]

The decisions upholding amortization ordinances, however, have not been universally acclaimed, and many were decided by deeply divided courts. *See*, e.g. *Harbison v. City of Buffalo, supra*, (4-3); *Board of Supervisors of Cerro Gordo County v. Miller*, Iowa, 170 N.W.2d 358 (1969) (4-4); *Standard Oil Co. v. City of Tallahassee*, 183 F.2d 410 (5th Cir. 1950) (2-1). The dissenters in these cases aptly pointed

[6]In the instant case, these principles would be impossible to implement even if accepted. The record is devoid of evidence demonstrating either the public interest to be secured by amortizing Rouse's non-conforming use of the property, the private loss which Rouse would sustain thereby, or the considerations which prompted the enactment of the ordinance.

out that the standard developed to determine the "reasonableness" of amortization ordinances are unprincipled and are virtually incapable of application. As the Iowa Supreme Court dissent stated: "An individual's right to due process cannot rest upon such a nebulous balancing of the scales by courts of various convictions and inclinations. If this test were all that is needed to satisfy due process, we could avoid the use of eminent domain in many situations. With proper planning property owners could be told that in five years their property will be taken for a public purpose without compensation." *Board of Supervisors of Cerro Gordo County v. Miller, supra*, 170 N.W.2d at 367.

The absence of measurable standards predictably has led to enormously variant periods of amortization for like businesses and confusing and contradictory court decisions. For example, some localities have determined that a junkyard owner should close his business within one (1) year (*McKinney v. Riley, supra*), whereas others have considered three (3) years to be reasonable (Decatur County, Indiana) and still others, five (5) years (Ripley County, Indiana). Outdoor signs have been required to be removed within 3 years (Cumberland County, North Carolina and Brighton, New York)[7] and others have been ordered removed in three (3) to six (6) years.[8] Similarly, courts have struggled without success with the chore of reading the scales which balance the public interest in health, safety, morals and welfare against the financial losses to the individual. Compare, for example, *Village of Oak Park v. Gordon, supra*, with *Gurnee v. Miller*, 69 Ill.App.2d 248, 215 N.E.2d 829 (1966); *Corpus Christi v. Allen*, 152 Tex. 137, 254 S.W.2d 759 (1953) with *White v.*

[7]See, *County of Cumberland v. Eastern Federal Corp.*, 48 N.C.App. 518, 269 S.E.2d 672 (1980); *Rochester Poster Advertising v. Town of Brighton*, 49 A.D.2d 273, 374 N.Y.S.2d 510 (1975).

[8]See, *Suffolk Outdoor Advertising v. Hulse*, 43 N.Y.2d 483, 373 N.E.2d 263 (1977).

City of Dallas, Tex.Civ.App., 517 S.W.2d 344 (1974). As the dissent in *Harbision v. City of Buffalo* bemoaned, this inconsistent and unequal treatment of property owners:

> ...is enough to display the confusion into which this subject is becoming involved in some jurisdictions in consequence of departing from the established rule. The courts find themselves obliged, without any guiding principle, to pick and choose between instances where a prior nonconforming use will or will not be protected in the courts. * * * The grace period allowed bears no discoverable relation to the kinds of property or businesses involved.
>
> * * *
>
> In practice this spells confusion, instability, inability to diagnose what are legal rights, inconsistency, arbitrariness and discrimination in administrative and court decisions, and an avalanche of litigation.

152 N.E.2d at 52-53.

Rather than choose this treacherous and compromising course, the Indiana Supreme Court planted its feet on the solid principle that pre-existing nonconforming uses are entitled to constitutional protection so long as they do not constitute a nuisance. And in so ruling, the Court aligned itself with the many jurisdictions which have recognized that amortization is the noose around the neck of due process.[9] Because the judgment in this case is consistent

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[9]Missouri: *Hoffman v. Kinealy*, *supra* (decided under state constitution)
Kentucky: *City of Paducah v. Johnson*, Ky., 522 S.W.2d 447 (1975)
South Carolina: *James v. City of Greenville*, 227 S.C. 565, 88 S.E.2d 661 (1955)
Ohio: *City of Akron v. Chapman*, 160 Ohio St. 382, 116 N.E.2d 697 (1953)
New Jersey: *United Advertising Corp. v. Rautan*, 11 N.J. 144, 93 A.2d 362 (1952) (decided under state statute).
Arkansas: *City of Fayetteville v. S & H, Inc.* 261 Ark. 148, 547 S.W.2d 94 (1977)
Idaho: *O'Connor v. City of Moscow*, *supra*.
Michigan: *DeMull v. Lowell*, 368 Mich. 242, 118 N.W.2d 232 (1962) (decided under state statute).

with principles of due process of law, this petition for a writ of certiorari should be denied.

C.

The denial of this petition will not leave Indiana communities helpless in achieving the important goal of reducing nonconforming uses of real property. Several avenues remain open. Communities could do nothing and await the gradual removal of nonconforming uses. Where a business or other use of property constitutes a nuisance, an action may be initiated to terminate that use. Communities could place limitations on the extension of nonconforming uses and repairs to property, and could provide tax and other incentives to relocate. If these measures did not resolve the problems quickly enough to promote the public good, counties and municipalities may utilize their power of eminent domain to purchase the property at a fair price, thereby providing just compensation to the affected owner and achieving the public interest in discontinuing the undesired use. Ind.Code §36-1-4-5. Thereafter the property could be resold to a buyer who will conform his use to the applicable zoning. However we should never lose sight of the caveat of Mr. Justice Holmes in *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 416 (1922), that "[w]e are in danger of forgetting that a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change."

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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